

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ANTHONY BROOKS,

Plaintiff,

v.

GETTERE,

Defendant.

Case No. 3:20-cv-00236-MMD-CLB

ORDER

On April 17, 2020, this Court issued an order directing Plaintiff to file a complete application to proceed *in forma pauperis* ("IFP") or pay the full filing fee of \$400 on or before June 15, 2020. (ECF No. 3 at 2.) The June 15, 2020 deadline has now expired, and Plaintiff has not complied with the Court's order dated April 17, 2020.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)

1 (affirming dismissal for lack of prosecution and failure to comply with local rules).

2 In determining whether to dismiss an action for lack of prosecution, failure to obey
 3 a court order, or failure to comply with local rules, the court must consider several factors:
 4 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
 5 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
 6 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
 7 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
 8 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

9 Here, the Court finds that the first two factors, the public's interest in expeditiously
 10 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
 11 dismissal. The third factor, risk of prejudice to Defendant, also weighs in favor of
 12 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
 13 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
 14 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
 15 disposition of cases on their merits—is greatly outweighed by the factors in favor of
 16 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
 17 the court's order will result in dismissal satisfies the "consideration of alternatives"
 18 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
 19 at 1424.

20 The Court's order requiring Plaintiff to file an IFP application or pay the full filing
 21 fee on or before June 15, 2020 expressly stated:

22 "IT IS FURTHER ORDERED that if Plaintiff does not file . . . a fully complete
 23 application to proceed *in forma pauperis* with all three documents or pay the full
 24 \$400 filing fee for a civil action on or before June 15, 2020, the Court will dismiss
 25 this action without prejudice for Plaintiff to refile the case with the Court, under a
 26 new case number, when Plaintiff . . . has all three documents needed to file a
 complete application to proceed *in forma pauperis* or pays the full \$400 filing fee."

27 (ECF No. 3 at 2). Thus, Plaintiff had adequate warning that dismissal would result from
 28 his noncompliance with the Court's order to file an IFP or pay the full filing fee on or before

1 June 15, 2020.

2 It is therefore ordered that this action is dismissed without prejudice based on
3 Plaintiff's failure to file an application to proceed *in forma pauperis* or pay the full filing fee
4 in compliance with this Court's order dated June 15, 2020.

5 It is further ordered that the Clerk of Court shall enter judgment accordingly and
6 close this case. No additional documents will be filed in this closed case.

7 DATED THIS 23rd day of June 2020.

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10 MIRANDA M. DU
11 CHIEF UNITED STATES DISTRICT JUDGE
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